

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Bowen Analyst: Kristina E. North Bill Number: SB 168
Related Bills: See Prior Analyses Telephone: 845-6978 Amended Date: June 14, 2001
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Personal Information Confidentiality/Identity Theft

- ☒ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analyses of bill as amended April 16, 2001.
- ☐ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
- ☒ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analyses of bill as amended April 16, 2001.
- ☒ FURTHER AMENDMENTS NECESSARY.
- ☐ DEPARTMENT POSITION CHANGED TO _____.
- ☒ REMAINDER OF PREVIOUS ANALYSES OF BILL AS AMENDED April 16, 2001, STILL APPLIES.
- ☒ OTHER - See comments below.

SUMMARY

This bill would:

- ◆ Grant consumers the right both to verify and to authorize the issuance of their consumer credit report information. The department would be exempt from these provisions for activities related to the investigation or collection of delinquent taxes.
- ◆ Reduce the use of social security numbers (SSNs) as personal identifying numbers.

This bill also would make changes to the Civil Code with regard to consumer credit reporting agencies. These changes do not affect the department and are not discussed in this analysis.

SUMMARY OF AMENDMENT

The June 14, 2001, amendments made changes affecting the consumer credit report portion of this bill that do not impact this department.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Legislative Director

Date

Brian Putler

07/05/01

The June 11, 2001, amendments specified that the provisions regarding the consumer credit report would not apply to:

- ◆ any state or local agency, law information agency, trial court, or private collection agency acting pursuant to a court order, warrant, or subpoena; or
- ◆ the Franchise Tax Board (FTB), its agents, or assigns acting to investigate or collect delinquent taxes or unpaid court orders or to fulfill any of its other statutory responsibilities.

The June 11, 2001, amendments resolved the implementation concern regarding the department's ability to use a consumer credit report to fulfill all of its statutory requirements, as well as the policy concern with regard to the Internal Revenue Service.

This bill would provide an exception to allow the continued use of a social security number if all four stated requirements are met. Internal inconsistencies in the exception were identified as implementation concerns in the analysis of this bill as amended April 16th. The June 11, 2001, amendments specified that a state or local agency would not be allowed to use the exception. This amendment also changed the beginning date for the annual disclosure partially resolving one of the internal inconsistencies previously identified as an implementation concern. The remaining internal inconsistency in the exception is restated below as a technical rather than as an implementation concern.

The June 11, 2001, amendment also made changes to the bill that did not impact the department.

Except for the changes discussed above, the remainder of the department's analysis of this bill as amended April 16, 2001, still applies. The remaining implementation concerns and technical concerns that still apply are restated below.

CONFIDENTIALITY OF SOCIAL SECURITY NUMBERS

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

- ◆ The author's office indicated that it was not its intent to require FTB to cease using SSNs as identifying numbers and has requested that the department provide language to specify that this section not apply to FTB to the extent needed to fulfill its statutory obligations. Amendment 1 is provided to address this issue. Without this amendment, FTB could be precluded from using SSNs on materials mailed to a taxpayer, including but not limited to refund checks, correspondence regarding the taxpayer's account, and related documents.
- ◆ Although state and federal laws require the SSN to be used as the identifying number for individual taxpayers, it does not specifically *require* the use of the SSN on every document that may be mailed to a taxpayer. FTB also uses SSNs when filing tax liens, wage assignments, and bank levies against delinquent taxpayers. SSNs are used to assure proper identification by the county recorders as well as other entities. Thus, without a specific law allowing FTB to use the SSN on all necessary documents, FTB may be unable to gather and disseminate information essential to fulfill its statutory obligations.

- ◆ Additionally, documents containing SSNs may become public. Documents such as tax liens, wage assignments, and bank levies include the taxpayer's SSN for identification and become known to third parties, usually banks and employers. Thus, FTB could be precluded from effectively meeting its statutory requirements by unintentionally making an SSN "public" in this manner.
- ◆ Definitions are needed for "publicly post or display," "continuous," "secure," "internal verification," and "administrative purposes."

TECHNICAL CONSIDERATION

Internally inconsistent language exists within the exception provided in this bill. Two of the four conditions required to "continue to use" an SSN specifically require the "termination of use" of the SSN. Thus, it is unclear how a person or entity may *continue* to use an SSN when two of the conditions of continued use would result in the specific cessation of use of the SSN. One of the two inconsistent conditions is that the person or entity seeking to continue use of an SSN must process a written request from an individual to cease using his or her SSN within 30 days. The other inconsistent condition is the prohibition from denying services to an individual who has requested cessation of use of his or her SSN. Thus, to be allowed to "continue" to use an SSN, a person or entity must comply with an individual's request to cease using his or her SSN and not deny services as a result of the request.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO SB 168
As Amended June 14, 2001

AMENDMENT 1

On page 12, line 36, after "(f)" insert:

The provisions of this section shall not apply to the use of the Social Security number by the Franchise Tax Board or its agents or assigns.

(g)

AMENDMENT 2

On page 13, line 1, strikeout "(g)" and insert:

(h)